IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10027 of 2006
To
SPECIAL CIVIL APPLICATION No.10038 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

THE HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GANGABHAI JIVABHAI @ TIDABHAI (SINCE DIED) - Petitioner
Versus
STATE OF GUJARAT TRO' SECRETARY & 1 - Respondents

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Appearance :
MR CL SONI for Petitioner in each petition.
MR SS PATEL, ASSTT. GOVERNMENT PLEADER for Respondents in each petition.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 21/07/2006

COMMON **ORAL JUDGMENT**

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Rule is issued in each petition. Mr.S.S.Patel, learned Assistant Government Pleader, waives service of notice on behalf of the respondents in each petition. Having regard to the facts of the case, all the petitions are taken for final disposal today.

2. By filing these petitions under Article 226 of the Constitution, the petitioner in each petition has prayed to direct the respondents to immediately decide the application submitted by him/her under Section 28-A of the Land Acquisition Act, 1894 and make payment of additional amount of compensation payable to him/her, which may be redetermined in view of award dated April 30, 1988, rendered by the learned Assistant Judge, Porbandar, in Land Reference Nos.1 of 1986 and 3 to 10 of 1986.

3. The petitions were placed for admission hearing before the Court on May 5, 2006 and after hearing the learned counsel for the petitioner, notice was issued in each petition making it returnable on July 4, 2006.

4. On service of notice, Mr. Nilesh Vaikuntharai Upadhyay, Deputy Collector, Land Acquisition & Rehabilitation (Irrigation), Junagadh, has filed affidavit-in-reply dated July 12, 2006 explaining as to why the application submitted by each petitioner under Section 28-A of the Act could not be decided within reasonable time. On going through the reply filed by the respondent No.2, this Court is of the opinion that delay caused in deciding the applications submitted by the petitioners under Section 28-A of the Act is satisfactorily explained. During the course of hearing of the petitions, Mr.S.S.Patel, learned counsel for the respondents has produced two Awards dated July 19, 2006 rendered by the respondent No.2 under Section 28-A of the Act. Those awards are taken on the record of the case. A bare perusal of those awards makes it very clear that compensation payable to the petitioner in each petition has been redetermined on the basis of Award of the Reference Court. As the applications filed under Section 28-A of the Act are decided, this Court is of the opinion that prayer made in the petitions has become infructuous and the petitions deserve to

be disposed of accordingly.

For the foregoing reasons, rule is discharged in each petition. There shall be no order as to costs. Having regard to the facts of the case, respondent No.2 is directed to disburse the amount of compensation redetermined by him under Section 28-A of the Act to the claimant concerned as early as possible and without any avoidable delay. Subject to abovereferred to direction, each petition stands disposed of as having become infructuous.

A copy of this order may be given to the learned Assistant Government Pleader to enable him to communicate the same to the respondent No.2.

[J.M.PANCHAL,J.]

[SMT.ABHILASHA KUMARI,J.]

(patel)